



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-9083; NRC-2018-0242]

U.S. Army Ranges with Davy Crockett Depleted Uranium

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued License Amendment No. 3 to the Army. License Amendment No. 3 makes multiple changes to Source Materials License No. SUC-1596: (1) incorporation by reference of three revised final site-specific Environmental Radiation Monitoring Plans (ERMPs); (2) incorporation by reference of the December 15, 2017, letter, clarifying sampling procedures; (3) incorporation by reference of the letter naming the license Radiation Safety Officer (RSO); (4) incorporation by reference of the letter naming the new Army licensing official; and (5) editorial changes to correct grammar, and formatting. License Amendment No. 3 was effective on the date of issuance. The Army must implement the revised final site-specific ERMPs within 3 months of the date of issuance.

DATES: **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: Please refer to Docket ID **NRC-2018-0242** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2018-0242**. Address questions about Docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail:

Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Amy M. Snyder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-6822, e-mail: Amy.Snyder@nrc.gov.

SUPPLEMENTARY INFORMATION:

In a letter dated June 1, 2017 (ADAMS Accession No. ML17158B356), the Army requested an amendment to Source Materials License No. SUC-1593 (ADAMS Accession No. ML16343A164) pursuant to section 40.44 of title 10 of the *Code of Federal Regulations* (10 CFR), "Amendment of Licenses at the Request of Licensee." The Army requested to replace the three annexes to the programmatic environmental monitoring plan (ERMP) (site-specific ERMPs) with revised final versions, because the Army indicated that Figure 1-2, in each of the three site-specific ERMPs, is incorrect due to sizing/scaling errors made by the Army. The site-specific ERMPs that the Army

proposed be replaced with the revised final site-specific ERMPs were the site-specific ERMPs for Fort Polk, LA, (Annex 11) (ADAMS Accession No. ML16265A225), Fort Riley, KS, (Annex 12) (ADAMS Accession No. ML16265A226) and the Pohakuloa Training Area (PTA), HI (Annex 17) (ADAMS Accession No. ML16265A231), dated September 2016. The Army also requested a license amendment that would allow the Army to make similar future “minor changes” to site-specific ERMPs without NRC approval.

In a letter dated September 18, 2017 (ADAMS Accession No. ML17226A205), the NRC staff (staff) informed the Army that they completed their acceptance review of the application and found that the request to correct specific figure sizing/scaling errors in the identified site-specific ERMPs contains sufficient information for the staff to begin their detailed technical review. However, the staff determined that the Army’s proposal to make similar future “minor changes” to site-specific ERMPs without U.S. NRC approval did not contain enough information to accept the request for detailed technical review. Also in the September 18, 2017, letter, the staff informed the Army that it would continue to process the June 1, 2017, license amendment request, to include the appropriate noticing in the *Federal Register*, without further consideration of the “minor changes” portion of the license amendment request if the Army did not provide a supplement to the amendment request within 30 days for the staff to evaluate.

On October 18, 2017, the Army informed the staff that it would not pursue the minor changes portion of its June 1, 2017 amendment request. In a letter dated November 21, 2017 (ADAMS Accession No. ML17297B156), the staff informed the Army that the NRC will not consider the “minor changes” portion of the Army’s June 1, 2017, amendment application.

On December 11, 2017, a notice of an opportunity to request a hearing and to petition for leave to intervene on this licensing proceeding was published in the *Federal Register* (82 FR 58221). No requests were submitted.

On December 15, 2017, the Army submitted supplemental information (ADAMS Accession No. ML18009A456) clarifying how it conducts sediment sample collection. This submittal was a voluntary response to a NRC Petition Review Board's question about sediment sample collection raised in the March 16, 2017, 10 CFR 2.206 petition (ADAMS Accession No. ML17110A308). In a letter dated January 19, 2018 (ADAMS Accession No. ML18023A991), the Army requested that its December 15, 2017, clarification letter be included under License Condition No. 11 for License Amendment No. 3. This portion of License Amendment No. 3 is administrative. An updated *Federal Register* notice (FRN) was not required for this administrative change.

In the March 16, 2017, 10 CFR 2.206 petition, a concern was raised that the PTA site has unique characteristics, such as "recent" lava flows, as exhibited by a vein of dark color that intersects the PTA radiation controlled area (RCAs) where the Davy Crockett depleted uranium (DU) is located, that should be taken into consideration to confirm that surface water flow is not impeded by the recent lava flow and thereby sediment collection is possible in the proposed PTA sediment sampling location designated by the Army. The concern that the sediment sampling location at the PTA site was unacceptable was not accepted by the Director of the Office of Nuclear Material Safety and Safeguards in this petition process because the staff's evaluation of the Army's request to change the sediment sampling location at the PTA was underway in which the petitioner could be a party and through which the petitioner's concerns could be addressed. The staff considered in its review for this licensing action the petitioner's comment asserting that the sediment sampling location at the PTA is inappropriate due

to recent lava flows that present a formidable barrier to flow (ADAMS Accession No. ML17279A082).

Also, the NRC staff requested that the License RSO contact information be incorporated by reference in the license consistent with NUREG-1556, Vol. 7, Rev.1 “Consolidated Guidance About Material Licenses: Program Specific Guidance About Academic, Research and Development, and Other Licenses of Limited Scope, Including Electron Capture Devices and X-Ray Fluorescence Analyzers” and past practice for materials licensees managed by regional NRC staff. In addition, in a letter dated September 5, 2018, the Army informed the staff of the appointment of a new Army Installation Management Command Commander. This position is the authorizing official for this license and the letter was incorporated by reference in License Condition No. 11 of License Amendment No. 3.

Because the staff considered the amendment an action related to the possession and management of DU military munitions, change in licensing official and License RSO, and administrative changes, the proceeding was considered to fall within the Categorical Exclusions under 10 CFR 51.22(c)(14)(xv), 10 CFR 51.22(c)(10)(iv), and 10 CFR 51.22(c)(10)(v), respectively.

The NRC staff completed a safety evaluation report (SER) (ADAMS Accession No. ML18158A324) of the license amendment request. The staff found that the proposed revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI, which contain the corresponding proposed revised Figures 1.2, are consistent with the previously approved programmatic approach for preparation of site-specific ERMPs pursuant to Source Materials License No. SUC-1593, Amendment No. 1. The staff found that the proposed changes do not impact the dose assessment verification because the bounding public dose assessment was not impacted due to change of

sampling locations at the identified facilities. The staff found the proposed three revised final site-specific ERMPs to be adequate for monitoring for transport of DU from the RCAs or ranges where the Davy Crockett DU is located.

The staff found that the Army's survey programs, as proposed to be modified by the June 1, 2017 application, would result in a change of sediment and surface water sampling locations at Fort Polk and Fort Riley, and a change in the sediment sampling location at the PTA. The staff found that these changes are reasonable under the circumstances to evaluate the magnitude and extent of radiation levels; the concentrations or quantities of residual radioactivity; and the potential radiological hazards of the radiation levels and residual radioactivity detected at these installations.

The staff determined that the current lava flows in the vicinity of the PTA RCAs (those that transect the RCA area) do not act as an impenetrable barrier to surface water flow towards the general direction of the proposed sediment sample location.

The staff found the reference to the site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI, should be removed from License Condition No. 11 in the Source Materials License No. SUC-1593. The proposed revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI, and the December 15, 2017, letter, clarifying sediment sample collection should be incorporated by reference in License Condition No. 11 instead. In addition, the staff determined that License Condition No. 18 should be modified to allow additional time from the effective date of License Amendment No. 3 for the Army to implement the revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI due to the change in sampling locations. The staff believe that three additional months is sufficient for this purpose. The Army agreed with the proposed license conditions (ADAMS Accession Nos. ML18158A230 and ML18158A284).

The staff determined that the December 15, 2017, clarifying information in the letter does not involve any new actions which were not already previously approved, and that the clarifying information would not modify the current requirements and commitments. The staff determined that the December 15, 2017, clarifying letter should be incorporated by reference in License Condition No. 11. This portion of License Amendment No. 3 is administrative.

The staff determined that incorporation of the contact information of the License RSO, at the request of staff, and the new Army authorizing official for this license would not affect what was already approved in previous licensing actions and the information would not impact the current requirements and commitments. The staff concluded that the contact information for the License RSO and the new Army authorizing official for this license should be incorporated by reference in License Condition No. 11. This portion of License Amendment No. 3 is administrative.

In the course of its review, the staff identified other administrative changes that should be made to the license. These changes consisted of modification of sentences to ensure consistent use of acronyms and initialism, formatting changes, or and correction of grammatical or typographical errors. The staff confirmed that these changes would not change any requirements or commitments or add new requirements or commitments. This portion of License Amendment No. 3 is administrative.

The staff concluded that the findings described in the staff's SER report support the issuance of a license amendment requiring the use of the three revised final site-specific ERMPs by incorporation by reference; the incorporation by reference of the December 15, 2017, letter clarifying sediment sample collection; the incorporation by reference of the February 24, 2010, letter documenting the contact information for the

License RSO; and the incorporation by reference of the September 5, 2018, letter documenting the new Army authorizing official for this license.

The staff found that the requested license amendment is in accordance with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), as well as the NRC's rules and regulations.

Therefore, the NRC amended the license to incorporate by reference the revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI and removed the corresponding September 2016 versions from the License Condition 11. In addition, License Condition No. 18 was amended to allow three months from the effective date of License Amendment No. 3 for the Army to implement the revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI. Also, the NRC amended the license to incorporate by reference the December 15, 2017, letter clarifying sediment sample collection, as well as the February 24, 2010, letter documenting the contact information for the License RSO, and the September 5, 2018, letter documenting the new Army authorizing official for this license. In addition, the NRC amended the license to address the consistent use of acronyms, initialisms, and formatting, and to correct grammatical errors and typographical errors.

The NRC approved and issued Amendment No. 3 to Source Materials License No. SUC-1593, held by the Army for the 16 U.S. military installations with RCAs with Davy Crockett DU that authorizes the possession of DU. License Amendment No. 3 (ADAMS Accession No. ML18242A352) was effective as of the date of issuance.

Dated at Rockville, Maryland, this 1st day of November, 2018.

For the Nuclear Regulatory Commission.

Stephen Koenick,

Chief,

Low-Level Waste and Projects Branch,

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